

LATHROP GAGE

Denise L. Mayfield
(720) 931-3028
E-mail: dmayfield@lathropgage.com

4845 Pearl East Circle, #300
Boulder, CO 80301
Fax: (720) 931-3001

November 15, 2002

VIA U.S. FIRST CLASS MAIL

Dr. John Dodds
Dodds & Associates
1707 N St.
Washington, DC 20036

RE: U.S. Serial No. 09/773,303
Title: FIELD BEAN CULTIVAR NAMED ENOLA
Our Ref: 396168

Dear Dr. Dodds:

Enclosed are true and correct copies of the papers filed with the USPTO regarding application 09/773,303, Control 90/005,892 filed on November 15, 2002.

I hereby certify pursuant to provisions under 37 CFR 1.248(a)(4) these documents are being transmitted to you by U.S. First Class Mail. Please sign below to acknowledge receipt of these items and transmit the signed document to us.

Sincerely,


Denise L. Mayfield

Signed:

Date

John Dodds

RECEIVED
TECH CENTER 1600/2900
02 NOV 15 PM 12:21

RECEIVED
NOV 15 2002
TECH CENTER 1600/2900

RECEIVED
NOV 19 2002
TECH CENTER 1600/2900

Change Your Expectations.™

KANSAS CITY • OVERLAND PARK • ST. LOUIS • JEFFERSON CITY • SPRINGFIELD • BOULDER • WASHINGTON D.C.

Please type a plus sign (+) inside this box → ☐

PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Serial Control Number	09/773,303 - 90/005,892	
	Filing Dates	01/31/2001 - 12/20/2000	
	First Named Inventor	Larry M. Proctor	
	Group Art Unit	1638	
	Examiner Name	Amy Nelson	
Total Number of Pages in This Submission		Attorney Docket Number	396168

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ Remarks	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Cited References Certificate of Mailing Return Postcard

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Denise L. Mayfield, Reg. No. 33,732 Lathrop & Gage L.C.
Signature	<i>Denise L. Mayfield</i>
Date	November 14, 2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

<h2 style="margin: 0;">FEE TRANSMITTAL</h2> <h3 style="margin: 0;">for FY 2002</h3> <p style="margin: 0; font-size: small;">Patent fees are subject to annual revision.</p>		<p style="margin: 0; font-size: x-small;">Complete if Known</p>	
<input type="checkbox"/> Applicant claims small entity status.		Application Number	09/773,303 - 90/005,892
<p style="margin: 0; font-weight: bold;">TOTAL AMOUNT OF PAYMENT</p>		Filing Date	1/31/200 - 12/20/2000
<p style="margin: 0;">(\$) 180</p>		First Named Inventor	Larry Proctor
<p style="margin: 0;">Examiner Name</p>		Group / Art Unit	1638
<p style="margin: 0;">Attorney Docket No.</p>		396168	

<p style="margin: 0; font-size: x-small;">METHOD OF PAYMENT (check one)</p>					<p style="margin: 0; font-size: x-small;">FEE CALCULATION (continued)</p>																																																																																																																																																					
<p style="margin: 0; font-size: x-small;"> <input checked="" type="checkbox"/> Check <input type="checkbox"/> Credit card <input type="checkbox"/> Money <input type="checkbox"/> Other <input type="checkbox"/> Deposit Account </p> <p style="margin: 0; font-size: x-small;">Deposit Account Number: 12-0600</p> <p style="margin: 0; font-size: x-small;">Deposit Account Name: Lathrop & Gage L.C.</p> <p style="margin: 0; font-size: x-small;"> The Commissioner is authorized to: (check all that apply) <input type="checkbox"/> Charge fees indicated below <input checked="" type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge Any Additional Fee Required during pendency of this application <input type="checkbox"/> Charge Fee(s) indicated below, except for the filing fee to the above-identified deposit account </p>					<p style="margin: 0; font-size: x-small;">3. ADDITIONAL FEES</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th>Fee Code</th> <th>Large Entity Fee (\$)</th> <th>Small Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td></tr> <tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet.</td></tr> <tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non-English specification</td></tr> <tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for reexamination</td></tr> <tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td></tr> <tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td></tr> <tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for reply within first month</td></tr> <tr><td>1252</td><td>400</td><td>2252</td><td>200</td><td>Extension for reply within second month</td></tr> <tr><td>1253</td><td>920</td><td>2253</td><td>460</td><td>Extension for reply within third month</td></tr> <tr><td>1254</td><td>1,440</td><td>2254</td><td>720</td><td>Extension for reply within fourth month</td></tr> <tr><td>1255</td><td>1,960</td><td>2255</td><td>980</td><td>Extension for reply within fifth month</td></tr> <tr><td>1401</td><td>320</td><td>2401</td><td>160</td><td>Notice of Appeal</td></tr> <tr><td>1402</td><td>320</td><td>2402</td><td>160</td><td>Filing a brief in support of an appeal</td></tr> <tr><td>1403</td><td>280</td><td>2403</td><td>140</td><td>Request for oral hearing</td></tr> <tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>Petition to institute a public use proceeding</td></tr> <tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive - unavoidable</td></tr> <tr><td>1453</td><td>1,280</td><td>2453</td><td>640</td><td>Petition to revive - unintentional</td></tr> <tr><td>1501</td><td>1,280</td><td>2501</td><td>640</td><td>Utility issue fee (or reissue)</td></tr> <tr><td>1502</td><td>460</td><td>2502</td><td>230</td><td>Design issue fee</td></tr> <tr><td>1503</td><td>620</td><td>2503</td><td>310</td><td>Plant issue fee</td></tr> <tr><td>1460</td><td>130</td><td>1460</td><td>130</td><td>Petitions to the Commissioner</td></tr> <tr><td>1807</td><td>50</td><td>1807</td><td>50</td><td>Processing fee under 37 CFR 1.17(q)</td></tr> <tr><td>1806</td><td>180</td><td>1806</td><td>180</td><td>Submission of Information Disclosure Stmt</td></tr> <tr><td>8021</td><td>40</td><td>8021</td><td>40</td><td>Recording each patent assignment per property (times number of properties)</td></tr> <tr><td>1809</td><td>740</td><td>2809</td><td>370</td><td>Filing a submission after final rejection (37 CFR § 1.129(a))</td></tr> <tr><td>1810</td><td>740</td><td>2810</td><td>370</td><td>For each additional invention to be examined (37 CFR § 1.129(b))</td></tr> <tr><td>1801</td><td>740</td><td>2801</td><td>370</td><td>Request for Continued Examination (RCE)</td></tr> <tr><td>1802</td><td>900</td><td>1802</td><td>900</td><td>Request for expedited examination of a design application</td></tr> </tbody> </table> <p style="margin: 0; font-size: x-small;">Other fee (specify) _____</p> <p style="margin: 0; font-size: x-small;">*Reduced by Basic Filing Fee Paid SUBTOTAL (3) (\$) 180</p>					Fee Code	Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description	Fee Paid	1051	130	2051	65	Surcharge - late filing fee or oath	1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	1053	130	1053	130	Non-English specification	1812	2,520	1812	2,520	For filing a request for reexamination	1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	1251	110	2251	55	Extension for reply within first month	1252	400	2252	200	Extension for reply within second month	1253	920	2253	460	Extension for reply within third month	1254	1,440	2254	720	Extension for reply within fourth month	1255	1,960	2255	980	Extension for reply within fifth month	1401	320	2401	160	Notice of Appeal	1402	320	2402	160	Filing a brief in support of an appeal	1403	280	2403	140	Request for oral hearing	1451	1,510	1451	1,510	Petition to institute a public use proceeding	1452	110	2452	55	Petition to revive - unavoidable	1453	1,280	2453	640	Petition to revive - unintentional	1501	1,280	2501	640	Utility issue fee (or reissue)	1502	460	2502	230	Design issue fee	1503	620	2503	310	Plant issue fee	1460	130	1460	130	Petitions to the Commissioner	1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	1806	180	1806	180	Submission of Information Disclosure Stmt	8021	40	8021	40	Recording each patent assignment per property (times number of properties)	1809	740	2809	370	Filing a submission after final rejection (37 CFR § 1.129(a))	1810	740	2810	370	For each additional invention to be examined (37 CFR § 1.129(b))	1801	740	2801	370	Request for Continued Examination (RCE)	1802	900	1802	900	Request for expedited examination of a design application
Fee Code	Large Entity Fee (\$)	Small Entity Fee (\$)	Fee Description	Fee Paid																																																																																																																																																						
1051	130	2051	65	Surcharge - late filing fee or oath																																																																																																																																																						
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.																																																																																																																																																						
1053	130	1053	130	Non-English specification																																																																																																																																																						
1812	2,520	1812	2,520	For filing a request for reexamination																																																																																																																																																						
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action																																																																																																																																																						
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action																																																																																																																																																						
1251	110	2251	55	Extension for reply within first month																																																																																																																																																						
1252	400	2252	200	Extension for reply within second month																																																																																																																																																						
1253	920	2253	460	Extension for reply within third month																																																																																																																																																						
1254	1,440	2254	720	Extension for reply within fourth month																																																																																																																																																						
1255	1,960	2255	980	Extension for reply within fifth month																																																																																																																																																						
1401	320	2401	160	Notice of Appeal																																																																																																																																																						
1402	320	2402	160	Filing a brief in support of an appeal																																																																																																																																																						
1403	280	2403	140	Request for oral hearing																																																																																																																																																						
1451	1,510	1451	1,510	Petition to institute a public use proceeding																																																																																																																																																						
1452	110	2452	55	Petition to revive - unavoidable																																																																																																																																																						
1453	1,280	2453	640	Petition to revive - unintentional																																																																																																																																																						
1501	1,280	2501	640	Utility issue fee (or reissue)																																																																																																																																																						
1502	460	2502	230	Design issue fee																																																																																																																																																						
1503	620	2503	310	Plant issue fee																																																																																																																																																						
1460	130	1460	130	Petitions to the Commissioner																																																																																																																																																						
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)																																																																																																																																																						
1806	180	1806	180	Submission of Information Disclosure Stmt																																																																																																																																																						
8021	40	8021	40	Recording each patent assignment per property (times number of properties)																																																																																																																																																						
1809	740	2809	370	Filing a submission after final rejection (37 CFR § 1.129(a))																																																																																																																																																						
1810	740	2810	370	For each additional invention to be examined (37 CFR § 1.129(b))																																																																																																																																																						
1801	740	2801	370	Request for Continued Examination (RCE)																																																																																																																																																						
1802	900	1802	900	Request for expedited examination of a design application																																																																																																																																																						
<p style="margin: 0; font-size: x-small;">1. BASIC FILING FEE</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th>Large Fee Code</th> <th>Entity Fee (\$)</th> <th>Small Fee Code</th> <th>Entity Fee (\$)</th> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr><td>1001</td><td>740</td><td>2001</td><td>370</td><td>Utility filing fee</td><td></td></tr> <tr><td>1006</td><td>330</td><td>2006</td><td>165</td><td>Design filing fee</td><td></td></tr> <tr><td>1003</td><td>510</td><td>2003</td><td>255</td><td>Plant filing fee</td><td></td></tr> <tr><td>1004</td><td>740</td><td>2004</td><td>370</td><td>Reissue filing fee</td><td></td></tr> <tr><td>1005</td><td>160</td><td>2005</td><td>80</td><td>Provisional filing fee</td><td></td></tr> <tr><td colspan="5" style="text-align: right;">SUBTOTAL (1)</td><td>(\$) 0</td></tr> </tbody> </table>					Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid	1001	740	2001	370	Utility filing fee		1006	330	2006	165	Design filing fee		1003	510	2003	255	Plant filing fee		1004	740	2004	370	Reissue filing fee		1005	160	2005	80	Provisional filing fee		SUBTOTAL (1)					(\$) 0																																																																																																												
Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid																																																																																																																																																					
1001	740	2001	370	Utility filing fee																																																																																																																																																						
1006	330	2006	165	Design filing fee																																																																																																																																																						
1003	510	2003	255	Plant filing fee																																																																																																																																																						
1004	740	2004	370	Reissue filing fee																																																																																																																																																						
1005	160	2005	80	Provisional filing fee																																																																																																																																																						
SUBTOTAL (1)					(\$) 0																																																																																																																																																					
<p style="margin: 0; font-size: x-small;">2. EXTRA CLAIM FEES</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr> <td>Total Claims</td> <td>-</td> <td>=</td> <td>0</td> <td>X</td> <td>Fee from below</td> <td>=</td> <td>0</td> <td>Fee Paid</td> </tr> <tr> <td>Independent Claims</td> <td>-</td> <td>=</td> <td>0</td> <td>X</td> <td>Fee from below</td> <td>=</td> <td>0</td> <td>Fee Paid</td> </tr> <tr> <td>Multiple Dependent</td> <td>-</td> <td>=</td> <td>0</td> <td>X</td> <td>Fee from below</td> <td>=</td> <td>0</td> <td>Fee Paid</td> </tr> </table> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th>Large Fee Code</th> <th>Entity Fee (\$)</th> <th>Small Fee Code</th> <th>Entity Fee (\$)</th> <th>Fee Description</th> </tr> </thead> <tbody> <tr><td>1202</td><td>18</td><td>2202</td><td>9</td><td>Claims in excess of 20</td></tr> <tr><td>1201</td><td>84</td><td>2201</td><td>42</td><td>Independent claims in excess of 3</td></tr> <tr><td>1203</td><td>280</td><td>2203</td><td>140</td><td>Multiple dependent claim, if not paid</td></tr> <tr><td>1204</td><td>84</td><td>2204</td><td>42</td><td>** Reissue independent claims over original patent</td></tr> <tr><td>1205</td><td>18</td><td>2205</td><td>9</td><td>** Reissue claims in excess of 20 and over original patent</td></tr> <tr><td colspan="5" style="text-align: right;">SUBTOTAL (2) (\$)</td></tr> </tbody> </table> <p style="margin: 0; font-size: x-small;">**or number previously paid, if greater; For Reissues, see above</p>					Total Claims	-	=	0	X	Fee from below	=	0	Fee Paid	Independent Claims	-	=	0	X	Fee from below	=	0	Fee Paid	Multiple Dependent	-	=	0	X	Fee from below	=	0	Fee Paid	Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	1202	18	2202	9	Claims in excess of 20	1201	84	2201	42	Independent claims in excess of 3	1203	280	2203	140	Multiple dependent claim, if not paid	1204	84	2204	42	** Reissue independent claims over original patent	1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	SUBTOTAL (2) (\$)																																																																																												
Total Claims	-	=	0	X	Fee from below	=	0	Fee Paid																																																																																																																																																		
Independent Claims	-	=	0	X	Fee from below	=	0	Fee Paid																																																																																																																																																		
Multiple Dependent	-	=	0	X	Fee from below	=	0	Fee Paid																																																																																																																																																		
Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description																																																																																																																																																						
1202	18	2202	9	Claims in excess of 20																																																																																																																																																						
1201	84	2201	42	Independent claims in excess of 3																																																																																																																																																						
1203	280	2203	140	Multiple dependent claim, if not paid																																																																																																																																																						
1204	84	2204	42	** Reissue independent claims over original patent																																																																																																																																																						
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent																																																																																																																																																						
SUBTOTAL (2) (\$)																																																																																																																																																										

<p style="margin: 0; font-size: x-small;">SUBMITTED BY</p>				<p style="margin: 0; font-size: x-small;">Complete (if applicable)</p>	
Name (Print/Type)	Denise L. Mayfield	Registration No. Attorney/Agent	33,732	Telephone	(720) 931-3000
Signature				Date	NOV 14, 2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

RECEIVED

NOV 19 2002

TECH CENTER 1600/2900

2002 01 11 AM

IN THE UNITED STATES PATENT OFFICE

Applicant(s): Proctor, Larry

Examiner: Nelson, Amy J.

Reexamination of U.S. Patent No.: 5,894,079

Reissue Application No.: 09/773,303

Control No.: 90/005,892

Filed: 01/31/2001

Filed: 12/20/2000

For: **FIELD BEAN CULTIVAR NAMED ENOLA**

Assistant Commissioner for Patents
Washington, D.C. 20231

INFORMATION DISCLOSURE STATEMENT
FILED UNDER 37 C.F.R. § 1.97(c)

The present Information Disclosure Statement is submitted on behalf of Pod-Ners, Assignee of Patent No. 5,894,079, titled, "FIELD BEAN CULTIVAR NAMED ENOLA". It is respectively requested that these documents be made of record and entered as art considered in the Reissue Application Serial No. 09/773, 303, Control No. 90/005,892.

Copies of documents that were provided during an infringement action under the Pod-Ners Plant Variety Protection Act Certificate are included herewith. This Action was pending in the United States District Court for the District of Colorado (Civil Action No. 01-WY-2310 AJ, documents dated October 2-October 9, 2002).

Certification Under 37 CFR §1.97(c)

11/18/2002 RHARMON 00000003 180.00 50
01 FC:1806
The present Information Disclosure Statement is to be considered and entered into the Official Record of the Reexamination Application of U.S. Serial No. 09/773,303 of the United States Patent Office under the provisions provided under 37 CFR §1.97(c). I hereby certify pursuant to the provisions of 37 CFR §1.97(c) that the present Information Disclosure Statement, is being filed before the mailing date of any final Office Action under §1.113, before the issuance of a notice of allowance under §1.311, and before the issuance of an action that otherwise closes prosecution in the application, and that the filing of the present Information Disclosure Statement is accompanied by the fee set forth in CFR §1.17(p), \$180.00 (37 CFR §1.97(c)(2)).

A copy of reference #28-Exportacion De Variedad De Frijol Tio Azufrado A La USA, 1990) is included with the papers of the present Information Disclosure Statement. This document was produced during the infringement litigation of the Pod-Ners Plant Variety

RECEIVED
TECH CENTER 1600/2900
02 NOV 15 PM 12:21

RECEIVED

NOV 15 2002

TECH CENTER 1600/2900

RECEIVED
TECH CENTER 1600/2900

NOV 19 2002

RECEIVED

document was produced during the infringement litigation of the Pod-Ners Plant Variety Protection Act Certificate. The document purports the exportation of beans from seven (7) different exporters in Mexico to the United States. The dates indicated at the middle column of the document, purport to identify exportation dates of March, 1990, February, 1992, May 1997, February 1998, March, 1999, December 1996 and December 1999. We are not aware of the source of this document.

Rule 1.248 - Service of Papers; Manner of Service; Proof of Service in Cases Other Than Interferences

I, Denise L. Mayfield certify that a true and correct copy of the presently filed papers have been served to Dr. John Dodds, Attorney of Record for CIAT by transmission by first class mail on November 15, 2002 (37 CFR §1.248(a)(4)). Said proof of service is affixed to the papers filed herewith (37 CFR §1.248(b)).

I enclose the above documents for your review and consideration. Please direct correspondence to this case to:

Denise L. Mayfield
Lathrop & Gage, L.C.
4845 Pearl East Circle, Suite 300
Boulder, CO 80301

Respectfully submitted,

November 14, 2002
Date

Denise L. Mayfield
Denise L. Mayfield, Reg. No. 33,732

RECEIVED
NOV 19 2002
TECH CENTER 1600/2900

RECEIVED
NOV 19 2002
TECH CENTER 1600/2900